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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WAYNE E. FISHER

Appeal 2007-2387
Application 10/036,815
Technology Center 2100

Decided: March 19, 2008

Before JOSEPH L. DIXON, ANITA PELLMAN GROSS, and
SCOTT R. BOALICK, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-18. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

BACKGROUND

Appellant's invention relates to a system and method for ensuring that a database and its description are synchronized in an Information Management System (IMS) database (Spec. 1). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of ensuring that an IMS database and a description for said IMS database, are synchronized, wherein said description is stored in a data management block, and wherein said database comprises a first portion and second portion, the method comprising:

storing a copy of said description, used to load said database, within said first portion of said database, wherein said copy is maintained in said database;

before accessing said second portion of said database, comparing said copy of the said description with said description stored in said data management block; and

determining whether said copy of said description and said description stored in said data management block are synchronized.

PRIOR ART

The prior art reference of record relied upon by the Examiner in rejecting the appealed claims is:

Ahmad

US 5,745,748

Apr. 28, 1998

REJECTIONS

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahmad.

Rather than reiterate the conflicting viewpoints advanced by the Examiner and Appellant regarding the above-noted rejection, we make reference to the Examiner's Answer (mailed January 8, 2007) for the reasoning in support of the rejections, and to Appellant's Brief (filed October 10, 2006) and Reply Brief (filed March 12, 2007) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to Appellant's Specification and claims, to the applied prior art reference, and to the respective positions articulated by Appellant and the Examiner. As a consequence of our review, we make the determinations that follow.

35 U.S.C. § 103

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). “[T]he Examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d

1443, 1445 (Fed. Cir. 1992). Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Appellant argues that Ahmad does not teach storing a copy of a DBD (Database Description) in an IMS (Information Management System) database to be accessed, and Ahmad does not teach comparing the copy of the DBD in the database to the DBD in the DMB (Database Management Block) control block as recited in independent claim 1 (App. Br. 6 and Reply Br. 2-3). Appellant further argues that the Examiner has not supported the proffered conclusory and subjective opinions concerning the teachings of Ahmad (App. Br. 6 and Reply Br. 3).

The Examiner has offered the teachings at columns 6 and 12 of Ahmad to support the Examiner's position that a copy of the DBD is maintained in a remote computer containing the IMS database and storing the DBD at the local computer for later accessing the remote IMS database (Ans. 3-4). The Examiner further maintains that Ahmad teaches in the background of the invention at column 3 that the IMS database is subject to frequent changes and that Ahmad teaches determining whether the DBD

copies are synchronized before each access to the database when Ahmad shows the local DBD is mapped to the information on the remote computer in column 12 (Ans. 4).

While Ahmad does discuss direct access of the IMS database to utilize a particular DBD and cross-references/maps the DBD information on the local computer to the DBD information on the remote computer, we do not find that Ahmad specifically teaches comparing the copy of the DBD in the database to the DBD in the DMB control block, as claimed. While we find that Ahmad does teach updating a cross-reference table with the DBD information to allow direct IMS data access, we cannot agree with the Examiner's conclusory statements concerning the teachings of Ahmad regarding the inclusion of a copy of the DBD in the IMS at page 4 of the Answer. Nor has the Examiner supported those conclusory statements with any convincing line of reasoning to support those assertions. Therefore, we find the Examiner has not set forth a sufficient initial showing of obviousness of the invention as recited in independent claim 1, and we cannot sustain the rejection of independent claim 1, and the respective dependent claims 2-17.

Similarly, we find independent claim 18 (written in a somewhat dependent claim fashion) also contains the same limitations as discussed with respect to independent claim 1. Therefore, we find that the Examiner's rejection also lacks a proper initial showing of obviousness over Ahmad. Therefore, we cannot sustain the rejection of independent claim 18 over the teachings of Ahmad.

CONCLUSION

In summary, we reversed the rejection of claims 1-18 under 35 U.S.C.
§ 103(a).

REVERSED

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